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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,286	08/21/2003	Frank Bartels	P03,0314	7183

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SCHIFF HARDIN, LLP
PATENT DEPARTMENT
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CHICAGO, IL 60606-6473

EXAMINER

SINGH, SUNIL

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/645,286

Applicant(s)

BARTELS ET AL. 

Examiner

Sunil Singh

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— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 3-5, 7-9, 11-13, 23-25, 27-29, 31-33 and 37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6, 10, 14-22, 26, 30, 34-36 and 38-41 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/20/04, 4/9/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: page 2, "sat" appears to be incorrect. Page 13, it is not clear how the "sensor recognizes which support is being used". Also it is not clear what is meant by "length of sensor is measured". Appropriate correction is required.
2. The abstract of the disclosure is objected to because it is not clear how the board can be removed by a medical treatment or examination device. Correction is required. See MPEP § 608.01(b).

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: page 14 last line "49 (see Figure 10)". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "12a,12b" and "21a,21b" have both been used to designate motors. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1,2,6,10,14-22,26,30,34-36,38-41 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The independent claims call for the "positive fit mechanism being automatically variably configurable". This is not enabling because .

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Figures 5&6 do not show any automatically variably configurable positive fit mechanism.

It merely shows a recess there is no "varying". Claim 1 calls for the "positive fit mechanism" to be automatically configured for "any type of patient board" this is not enabling because the disclosure only allows one skilled in the art to be able to make and/or use the invention with patient boards (in particular 3A,3B,3C) as disclosed.

Applicant claims 16 and 36 call for the mechanical contact to actuate the sensor; however, the specification no way enables this. The sensor actuates the linkage (53) based on some "height" parameter I think since the disclosure is not enabling.

Claim 35, it is not enabling how the "sensor" recognizes which patient support board is being used.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1,2,6,10,14-22,26,30,34-36,38-41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are replete with indefiniteness that are too numerous to mention each one specifically. Applicant should review **all claims and correct them for indefiniteness.**

Some examples are noted: claim 1 "by a patient ... medical device" is confusing.

Claims 6,10,26,30 were elected by applicant; however they depend on claims which were not generic and claims which were not elected by applicant as readable on his elected Specie.

Claim 17, the last two lines are confusing.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1,2,6,10,14-22,26,30,34-36,38-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Lamb et al. (US 6260220).

Insofar, Figures 5&6 of applicant's specification can meet the "automatically variably configurable", then Lamb et al. discloses a patient gurney comprising: a chassis (see Figs. 1b,15); a support component on said chassis, said support component having a positive fit mechanism adapted to interact with a patient support board said positive fit mechanism releasable to allow removal of said patient support board said support component and said positive fit mechanism being automatically variably configurable to receive and engage a plurality of types of patient support boards, each having a head end and an underside, and differing from each other since their width are different (see Fig. 1b and 15). Height is adjustable (see Fig. 12).

11. Claims 1,2,6,10,14-22,26,30,34-36,38-41 are rejected under 35 U.S.C. 102(b) as being anticipated Carnes et al. (US 2962730).

Insofar, Figures 5&6 of applicant's specification can meet the "automatically variably configurable", then Carnes et al. discloses a patient gurney comprising: a chassis (see Figs. 1,15); a support component on said chassis, said support component having a positive fit mechanism adapted to interact with a patient support board

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said positive fit mechanism releasable to allow removal of said patient support board said support component and said positive fit mechanism being automatically variably configurable to receive and engage a plurality of types of patient support boards, each having a head end and an underside, and differing from each other since their underside are different (see Fig. 1 and 15). Height is adjustable (34).

12. Claims 1,2, 14,21-22,34 are rejected under 35 U.S.C. 102(b) as being anticipated Ramsey (US 2854673).

See Figures 4 and 6.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil Singh whose telephone number is (703) 308-4024. The examiner can normally be reached on Monday through Friday 8:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sunil Singh
Primary Examiner
Art Unit 3673



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12/17/04